

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re: the ESTATE of SELMA
FREEMAN CLARK,

Deceased,

GEORGE FREEMAN,

Plaintiff,

v.

GWENDOLYN M. YOUNG,
FLORENCE (aka SALLY) E. EVENS,
TIM BOZE, PACIFIC NORTHWEST
TITLE COMPANY OF SPOKANE,
RONALD THOMAS, NATIONAL
CITY MORTGAGE, DONNA R.
BERROTERAN, JANE & JOHN DOE
1-5,

Defendants.

NO. CV-05-202-RHW

**ORDER GRANTING
DEFENDANTS' MOTIONS TO
DISMISS AND MOTIONS FOR
SUMMARY JUDGMENT**

On October 25, 2006, the Court entered an Order dismissing Plaintiff's state law claims and ordered additional briefing on Plaintiff's section 1983 claims and civil RICO claims (Ct. Rec. 73).

In the order, the Court suggested that Plaintiff's section 1983 claim failed because Plaintiff did not show that Defendants are state actors for purposes of section 1983. In his supplemental briefing, it appears that Plaintiff is relying on the fact that some of the Defendants are state licensed; thus, Defendants are "acting under the color of their licenses." This is not an adequate showing under the law. *See Radcliffe v. Rainbow Constr. Co.*, 254 F.3d 772, 783 (9th Cir. 2001).

1 Accordingly, Plaintiff's section 1983 claim fails.

2 Moreover, Plaintiff has failed to demonstrate that Defendants are an
3 "enterprise" as contemplated by the federal RICO statute, or that Defendants
4 engaged in a "pattern of racketeering".

5 Plaintiff seeks permission to amend his Complaint. While leave to amend
6 should be granted freely when justice so requires, in reviewing the Complaint, the
7 civil RICO statement, Plaintiff's response to Defendant's motions, and Plaintiff's
8 supplemental briefings, the Court concludes that amending the Complaint to give
9 Plaintiff an additional opportunity to state a civil RICO claim would be futile.

10 *Thinket Ink Information Resources, Inc. v. Sun Microsystems, Inc.*, 368 F.3d 1053,
11 1061 (9th Cir. 2004).

12 Accordingly, **IT IS HEREBY ORDERED:**

13 1. Defendant Young's Motion to Dismiss (Ct. Rec. 54) is **GRANTED**.

14 2. Defendants National City Mortgage Company's and Ronald Thomas'
15 Motion for Summary Judgment (Ct. Rec. 60) is **GRANTED**.

16 3. Defendants Tim Boze and Pacific Northwest Title Company's Motion to
17 Dismiss (Ct. Rec. 48) is **GRANTED**.

18 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
19 Order, forward copies to Plaintiff and counsel, and close the file.

20 **DATED** this 27th day of December, 2006.

21 *S/ Robert H. Whaley*

22 ROBERT H. WHALEY
23 Chief United States District Judge
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